IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

CRIMINAL MISC. APPLICATION NO.264 OF 2005

Ganga Nath S/o Sh. Ram Kishan
R/o Village Uchahar Police Station
Uchahar, District - Rai Barially
At present R/o Jain Mandir, Rishikesh,
District- Haridwar. ……..Applicant

VERSUS

1. State of Uttaranchal.
2. Additional Session Judge/ Ivth F.T.C.
Haridwar, District - Haridwar. ….Respondents

Dated:- 15-7-2005

Hon'ble J. C. S. Rawat, J.

This is an application under Section 482 Cr.P.C. to set-aside the order dated 1-3-2005 passed by the learned Additional Session Judge/Ivth F.T.C. Haridwar.

The facts in nut shell are that the applicant was tried in Session Trial No.47/02 State Vs. Ganga Nath under Section 18/20 N.D.P.S. Act. After concluding the trial the learned Additional Session Judge, Haridwar acquitted the applicant on 29-9-2004 and directed that in case the appeal is not filed before the appellate court, the amount of Rs. 1,40,142.75 recovered from him may be returned to him. Then, the applicant moved an application on 1-2-2005 for the release of the aforesaid amount in pursuance of the directions contained in the order passed by the learned Additional Session Judge. The application was rejected on the ground that the State has intended to file an appeal against the acquittal and the papers have been sent to

the District Magistrate. It was observed in the order that the money has to be released in case the appeal has not been preferred by the State. Feeling aggrieved by the said order dated 1-3-2005 present petition has been filed.

The learned A.G.A. Sri Sudhir Kumar has stated before this court that he enquired from his office that no appeal has been preferred by the State till 6-5-2005. As per the limitation the leave to appeal against the acquittal is to be filed within 60 days from the date of the judgment. The said limitation period has already expired in the month November, 2004. As such, the State has not filed any appeal and the learned Addl. Session Judge has already directed that the amount may be released in favour of the applicant Ganga Nath after the expiry of the period of appeal. The State has not disputed regarding the custody of the money as stated before this court. As such, the aforesaid amount as indicated in the judgment may be released in favour of applicant Ganga Nath in accordance with law.

In view of the above discussion the petition is allowed and the order date 1-3-2005 passed by the learned Addl. Session Judge/ Ivth F.T.C. Haridwar is quashed. The amount of Rs. 1,40,142.75 be released in favour of the applicant Ganga Nath as per the directions given by the trial court in the judgment and order dated 29-9-2004.

(J. C. S. Rawat, J.)

Dated:- 15-7-2005

MPS